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SUBJECT: SPAIN OK WITH EU BIOFUELS LANGUAGE; SUPPORTS PASSING EU ENERGY & CLIMATE LEGISLATION IN 2008

REF: A. SECSTATE 123492

[1B.](#) MADRID 1047

[¶](#)1. (SBU) SUMMARY. ESTHOFF reviewed reftel points on November 25 with Hugo Lucas Porta, Secretary General of the International Relations Department at the GOS Institute for the Diversification and Development of Energy (IDAE). In the recent past, Lucas has expressed skepticism of the proposed language being considered by the EU for mandatory sustainability and greenhouse gas emissions reduction criteria for biofuels (to be incorporated in implementing regulations for the Climate and Energy package) and the way in which it was being developed. However, after participating in the legislative negotiating process with other EU Member States, Lucas is now comfortable that the final compromise on biofuels language within the Renewable Fuels Directive will contain sufficient flexibility to address GOS (and corresponding USG) concerns. According to SecGen Lucas, the 'final compromise' language will not restrict trade or exclude U.S. corn ethanol, will provide industry with enough time to comply with the new requirements, and will be science-based. He also emphasized that the European Commission (EC) will have the ability to make changes to the law if necessary, particularly as part of the scheduled legislative review in 2014. The GOS' primary concern with the legislation is that its Revision Clause may encourage some Member States to not be fully committed to the package's requirements because of a perception that they can back out of their commitments after a compulsory review in [¶](#)2014. Despite this concern, the SecGen is hopeful and expects that the EU Energy and Climate Legislation will be passed before the end of 2008. END SUMMARY.

Previous Skepticism

[¶](#)2. (SBU) In previous discussions with Post, Lucas has shared the USG's skepticism about the EU's proposed biofuels sustainability language and the motivations behind it. In a meeting with USDA Under Secretary Dorr in September 2008, SecGen Lucas said he believed the biofuels sustainability requirements were politically motivated by the French EU Presidency and were not necessarily science-based. He also said he believed that, at that point, the discussions in Brussels lacked the appropriate analysis of the effects on land use, biomass and biofuel production, and felt that more analysis was needed before implementing the biofuels standards.

A Change of Heart

¶3. (SBU) However, despite his earlier skepticism, Lucas is now comfortable that the final compromise on biofuels language within the Renewable Fuels Directive will contain sufficient flexibility to address USG concerns. SecGen Lucas is the lead GOS representative in Brussels responsible for negotiating the Spanish position on all EU legislation related to renewable energy. He has participated throughout the process of developing the Renewable Fuels Directive and the Energy and Climate Legislation. Lucas expects that the final compromise language between the EC, the Parliament and the Member States will not result in restrictions on trade or specific type of biofuels, particularly corn-based ethanol. He also shares the USG concern that industry should be provided sufficient time to adjust to the new requirements, and he believes that the legislation will allow this. And Lucas believes that the language is sufficiently science-based. For example, he referred to details of the legislation that recognize the need to protect biodiversity, identify the differing capabilities of various geographic areas, and provide appropriate incentives for second generation biofuels versus food crop-based sources.

Ensuring Commitment by All Member States

¶4. (SBU) One issue that appears very important to the GOS and has not yet been resolved is the mechanism(s) available

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to the EC beginning in 2014 (as prescribed by the legislation) if things do not develop as expected. Specifically, Spain's concern is that fellow Member States may not be fully committed to the package and all of its components if they perceive that they can back out of their commitments after the EC completes its required study of the legislation's impact in 2014. Spain's view is that the legislation must be binding and require shared commitments of all Member States without the prospect of 'backing out' if meeting targets becomes too difficult. Lucas referred specifically to this as the Revision Clause: Article 20, Paragraph 6, Subparagraph D. Spain's preference is to have all Member States fully commit to the structures that the law would create, without the risk that Member States would be able to pressure the EC to change or eliminate systems such as the CO₂ emissions trading scheme. To paraphrase, his concern is that this Revision Clause may result in the baby being thrown out with the bathwater if enough political pressure is applied as part of the 2014 review. It is important, according to Lucas, that this legislation not enable such a loophole.

Using EU Legislation as Basis for National Plan

¶5. (SBU) The SecGen is hopeful that the EU Energy and Climate Legislation will be passed before the end of 2008. He obviously is supportive of the legislation and has invested a lot of time in negotiating it. In addition to his belief that the legislation is in the best interests of the European Union, Lucas would also like to see the package passed to embolden his organization's national plan. IDAE is currently developing the GOS' updated National Renewable Energy Plan for the period 2011-2020. Lucas' view is that this plan, which would take effect in March 2010, would be much more likely to achieve the desired results if it were tied to obligatory EU legislation. As one would expect, IDAE believes that its ability to meet its organizational goals of improving energy efficiency and increasing the use of alternative energy would be significantly enhanced in this situation.

Spain Believes the Package Will Pass in 2008

¶6. (SBU) Finally, Lucas expressed his opinion that the EU Energy and Climate Legislation will be voted on and passed before the end of 2008. He said that two months ago the GOS was pushing for each Directive to be voted on separately, believing that the prospects for passing the entire package with all its directives were low. However, he said things have progressed quickly since then and that he expects the package will pass this year.

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